

The **Board of Zoning Appeals** of the City of North Royalton met on **July 24, 2013** to hold a Public Hearing in the Council Chambers at 13834 Ridge Road. The meeting was called to order by Chairman Dan Kasaris at 7:30 p.m.

Present: Chairman Dan Kasaris, Anthony Rohloff, Robert Jankovsky, Victor Bull, Dale Gauman, Assistant Law Director Donna Vozar, Building Commissioner Dan Kulchytsky, Secretary Lynn Brinkman.

Mr. Kasaris: May we have a motion to approve the June 26, 2013 Minutes as submitted.

Moved by Mr. Rohloff, seconded by Mr. Bull to **approve the Minutes from June 26, 2013.**

Mr. Kasaris: Will the clerk please call the roll.

Mr. Rohloff: Yes.

Mr. Jankovsky: Yes.

Mr. Bull: Yes.

Mr. Gauman: Yes.

Mr. Kasaris: Yes.

Ayes – all. Nays – none.

Motion carried (5-0). Minutes approved.

Mr. Kasaris: The items on the agenda tonight are for variances that are called “area variances”. Examples of area variances would be for relief from a setback, the size or the height of a structure or things of this nature. Our Code, in the case of area variances, asks that the applicant demonstrate that the literal enforcement of this Code would result in a practical difficulty for the applicant. The Board then has ten factors to be considered so as to determine whether practical difficulty exists. Some of these factors are:

1. *Whether there can be any beneficial use of the property without the variance;*
2. *Whether the variance is substantial or is the minimum necessary to make possible the reasonable use of the land or structure;*
3. *Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer substantial detriment as a result of the variance;*
4. *Whether the variance would adversely affect the delivery of governmental services;*
5. *Whether the variance sought is for relief from a zoning provision which was enacted after the creation of an existing condition or circumstance to the property in question;*
6. *Whether special conditions and circumstances exist which are peculiar to the land or structure involved and which are not applicable generally to other lands or structures...*

These are some of the ten factors that we must consider in determining whether or not practical difficulty exists. We are not permitted to consider anything that is **not** within the parameters of these ten factors. Having said all of this as a background for the items on the agenda we will now proceed to the public hearing.

Public Hearing / Open Meeting

New Business:

(BZA13-10) Joseph and Judy Vitello request a variance to **Chapter 1270 “Residential Districts”, Section 1270.12 “Yards for Accessory Buildings and Uses”, paragraphs (a)(1)B and (b),** of the City of North Royalton Zoning Code, to allow relief from the **maximum square footage** requirement and relief from the **minimum rear yard setback** requirement for an **addition that was constructed onto an existing accessory building** on this property located at **8112 Edgerton Road, also known as PPN: 485-06-007.**

Ms. Brinkman: Public Hearing Notices were sent to property owners within 500 feet of the property in question and posted for the required period of time. The Chairman will recognize anyone in the audience wishing to be heard.

Mr. Kasaris: May I have a motion with regard to the first variance being requested.

Moved by Mr. Jankovsky, seconded by Mr. Rohloff to **grant a variance of 500 square feet more than the maximum square footage allowed as prescribed in Section 1270.12 (a)(1)B of the Zoning Code with regard to the size of this accessory structure, including the addition / overhang, which has already been constructed.**

Mr. Kasaris: Are the applicants here? Would you please approach the microphone. Could you both please raise your right hand. Do you both swear that the testimony that you are about to give tonight is the truth, the whole truth and nothing but the truth?

Mrs. Vitello: Yes. My name is Judy Vitello.

Mr. Vitello: Yes. My name is Joseph Vitello.

Mr. Kasaris: Please state your cause as to why you want the variance.

Mrs. Vitello: Two years ago we did improvements on the barn and decided to put on an overhang to store equipment and firewood so that it would be easier for me to get the firewood during the winter months because my husband is frequently out of town. We had an old permit and we did not think that we would need another one as it did not affect anyone. We have only done things to improve our property from front to back since we bought the house 16 years ago.

Mr. Kasaris: What type of permit did you have?

Mr. Vitello: I was going off of the old permit that was given to the original owner. He had been given a permit to construct a 32' x 50' pole barn but he had only constructed a 30' x 40' barn.

Mrs. Vitello: I think that I supplied a copy of this permit in my paperwork.

Mr. Kasaris: That is correct but we want this to be on the record now.

Mr. Vitello: So I just went by the old permit that had been issued. In speaking then to the Building Commissioner I had found out that that permit had been good for only one (1) year.

Mr. Kasaris: What was that old permit for?

Mr. Vitello: For the construction of a pole barn. It had been issued in 1977.

Mrs. Vitello: It had been approved for more footage than the barn actually is.

Mr. Kasaris: Then what happened with the lean-to? How was that constructed?

Mr. Vitello: When I re-roofed the original barn I added the overhang onto it thinking that I would be okay due to the old permit.

Mr. Kasaris: Okay. Did you consult the Building Department at all during that time?

Mr. Vitello: No.

Mr. Kasaris: Were there any measurements that you took with regard to how close you were to the rear property line?

Mr. Vitello: Not exactly. I had a rough idea of where the rear property line was from talking to the property owner behind me.

Mr. Kasaris: (Addressing the Building Commissioner) Dan, had this process been followed the way that it should be done, that is a person would come before this Board seeking a variance prior to construction, what would the Building Department have done with regard to the existing barn and the lean-to? Is that what it is called, a lean-to?

Mr. Kulchytsky: It is an addition or an extension of the roof. It is essentially an open breezeway or a porch. If the applicant was preparing to do an addition drawings should have been submitted to the Building Department indicating information as to the setbacks and the size of the structure being requested. We would then have notified them that variances would be required to do the addition.

Mr. Kasaris: What would you require for that addition?

Mr. Kulchytsky: We would require that plans be submitted to the Building Department. The Engineering Department would have an opportunity to review it with regard to storm water plus any impact on the site. We would have reviewed it in relation to the Residential Code of Ohio for constructability and safety.

Mr. Kasaris: We have had such things as this come before us in the past. What do you do now – since the addition has already been constructed?

Mr. Kulchytsky: The applicants need to first secure the variances that are being requested. It is currently a non-permitted structure. They would have to provide adequate documentation that it is safe and capable of complying with the Residential Code of Ohio. I would also need engineering reviews and any comments that might come from the Engineering Department would have to be met and complied with.

Mr. Kasaris: What about storm water run-off or storm water drainage?

Mr. Kulchytsky: The Engineering Department would have to review that and state whether or not it is acceptable flowing in the direction that it is or would it have to be retained or collected and sent to a different direction.

Mr. Kasaris: How would you retain it or collect it and send it to a different direction? What options would be available?

Mr. Kulchytsky: They would be able to put it into a storm water system or a storm water sewer line. The Engineering Department would make that call though.

Mr. Kasaris: Is that something that should happen before a variance is considered?

Mr. Kulchytsky: That is correct. Well, not necessarily. You could apply for a variance without having any of the construction documents completed or any of the engineering reviews completed. If you were to go to the Building Department and request to build a structure that was larger than allowable we would not require, at that time, detailed drawings or detailed engineering drawings. That review occurs afterwards. Upon approval of a variance the Building and Engineering Departments would then review it.

Mr. Kasaris: So what would we, the Board of Zoning Appeals, have in front of us had this structure not have been constructed or have been done properly?

Mr. Kulchytsky: Very similar documentation.

Mr. Kasaris: Would we have anything from the Engineer?

Mr. Kulchytsky: No, you would not.

Mr. Kasaris: Does anyone on the Board have any questions for the applicants or anything else to add?

Mr. Vitello: Just to give you a general idea, and I know that you are familiar with my backyard (referring to Mr. Kasaris), from the end of my property there is nothing but woods that extend all the way to Valley Parkway. There is no sewer back there. There are a couple of ravines back there.

Mr. Kasaris: For the record, are there any other sheds or buildings similar to this on Edgerton Road?

Mr. Vitello: The gentleman two doors east of our property has a similar structure.

Mr. Kasaris: How large is that structure?

Mr. Vitello: I am not really sure but it appears to be a little bit larger than mine.

Mr. Kasaris: What type of storm water management would you be prepared to do to take care of any storm water run-off?

Mr. Vitello: The topography of that area naturally drains to where the ravines are at the back of the property. I guess that I would do whatever I would have to do.

Mr. Kasaris: (Addressing the Building Commissioner) Would he have to install gutters on this structure?

Mr. Kulchytsky: Our Code does require that gutters be installed on this structure.

Mr. Kasaris: Where would the drainage be directed to?

Mr. Kulchytsky: Most typically with the natural flow of the land. Whether or not additional retention will be required would be up to the Engineering Department.

Mr. Kasaris: What affect would gutters have on the structure?

Mr. Kulchytsky: On the structure itself? It would be negligible on the structure itself. The purpose of the gutters would be to re-direct the water into either a dry well or into a splash block to create consistent run-off so it diminishes erosion.

Mr. Kasaris: As it stands right now, and again this is for the record, how does the water drain?

Mr. Kulchytsky: It drains directly off of the roof. There is no gutter.

Mr. Rohloff: Is this structure a barn or a garage?

Mr. Vitello: It is a barn.

Mr. Rohloff: This barn had been existing. (Referring to one of the photos that had been submitted.) This is the overhang and this is the structure that we have been talking about.

Mr. Vitello: I had done nothing to the barn in 15 years and it had started leaking through the roof so I re-roofed and painted the building. I then also added that overhang.

Mr. Rohloff: (Addressing the Building Commissioner) Should these variances be approved the applicants would then have to submit plans to the Building Department for approval.

Mr. Kulchytsky: That is correct. They have submitted some documentation to us already and have received my response as to constructability comments.

Mr. Kasaris: What were your comments?

Mr. Kulchytsky: There were questions as to footers and foundations with regard to the area variance. There were a couple of minor things that they complied with. The largest items would obviously be the variances and verification of the footer sizes.

Mr. Kasaris: What footer size would be required?

Mr. Kulchytsky: I do not have that paperwork in front of me at this time.

Mr. Kasaris: Do you know what size the footers are?

Mr. Vitello: They are 8" x 8". The overhang was constructed by myself and a friend of mine who is a master carpenter.

Mr. Rohloff: You are prepared to make any improvements required?

Mr. Vitello: Whatever it takes. The reason that the gutters were not on there was because we are having a problem with the rear neighbor and so I put everything on hold until this is resolved. I will do whatever I have to do to get it up to Code. I should also mention that I am away from the house quite a bit. I having been working on restoring power to a lot of places due to hurricanes since 2008 so my wife is home alone a lot of the time. The kids are in and out. We had the wood stored on the outside so when it snowed it was hard for her to get the wood. That was part of the reason that we built that overhang - for easy access for her to get that dry wood.

Mr. Kasaris: Is there anyone else who wishes to be heard with regard to this issue? Please approach the microphone and state your name and address.

Mrs. Hurley: June Hurley, 16233 Bennett Road. We own the property in the back of them.

Mr. Kasaris: Could you please raise your right hand. Do you solemnly swear that the testimony that you are about to offer tonight is the truth, the whole truth and nothing but the truth.

Mrs. Hurley: Yes. My husband had surgery yesterday so he was not able to be here tonight so I brought my son-in-law. Can he come up?

Mr. Kasaris: Sure. The same procedure sir. Could you please raise your right hand. Do you solemnly swear that the testimony that you offer here tonight is the truth, the whole truth and nothing but the truth.

Mr. Leonti: I do.

Mr. Kasaris: Would you please state your name for the record.

Mr. Leonti: Tom Leonti. Roy (Mr. Hurley) had submitted a document. Can that be read now? This is his statement because he could not attend this meeting.

Ms. Brinkman: A Public Hearing Form had been submitted by Roy C. Hurley, resident at 16233 Bennett Road. It states as follows.

I am disapproving the granting of Vitello's variance request to allow relief from the maximum square footage requirement and I am disapproving the granting of Vitello's variance request to allow relief from the minimum rear yard setback requirement for their building addition. The original building and the building addition does not have gutters and downspouts. The roof of the building addition and half of the original building roof drains onto my property. I am disapproving these requests because the Vitello's have been using my property without permission as an extension of their back yard. They extended their driveway onto my property to park vehicles (see attached aerial photo with truck on my property), and they use my property to gain access to the MetroParks. They have been cutting down trees on my property without permission to clear the area for their personal use. The police were notified this spring to stop the Vitello's from using my property and clearing my land. Building this addition too close to my property line is just a continuation of the Vitello's using my property and taking advantage. This has to stop!

I will consider approving these variances if the Vitello's will:

- 1. Install gutters and downspouts to the building and insure that the roof water does not drain onto my property.***
- 2. Construct a 6 ft. high privacy fence the entire length of the back of their property to create a boundary between our property and the Vitello's.***

Mrs. Hurley: (Asked to approach the Board to submit photographs.) This is their driveway and the wood that they are storing under the overhang of this building.

Mr. Kasaris: Thank you. I am giving this one back but I will keep the photograph of the wood. I will make this photograph Exhibit A. The reason that I gave you that one back is because the trespassing issue is something that is to be determined by the Law Department. I think that they have already made a determination. We are here for the sole issue of determining if the variances being requested should be granted. We really cannot consider any trespassing complaints. That is outside of what we are to look at. You believe that is actually your wood.

Mrs. Hurley: Yes. That is 12 trees.

Mr. Leonti: So the addition that was needed to protect their wood could have easily been built smaller and have been within compliance with the Code had they followed the proper procedure and applied for a building permit. That addition probably could have been constructed within the Code. The drainage of water onto the property - and you might say that that is not such a big deal because it is a wooded area - but if that building addition was not there at least the ground would have had some time to absorb the water before it ran off onto the Hurley property. What Roy (Mr. Hurley) is trying to say with this is that this is just another attempt to encroach onto his property. I have tried to negotiate a settlement between the two parties for a couple of months. I thought that we had come to a nice, reasonable settlement but it did not work out. I think that the issue for us is that there just seems to be a mode of doing what they want to do with a property that is not their own and then ask for forgiveness later. That is the real issue for the Hurley's. There are just too many violations. That is why they are taking the position that they do not want these variances to be approved.

Mrs. Hurley: We placed a "No Trespassing" sign up with the police there. They told us that we could put it up. Now it is mudded up so that they cannot see it at all. She does not want to see that sign. She wants us to take it down.

Mr. Kasaris: Any questions for Mrs. Hurley or Mr. Leonti? Is there anything else to be read?

Ms. Brinkman: Yes. I have another Public Hearing Form that was submitted by Robert Sambor, resident of 16219 Bennett Road. It reads as follows.

For the Board of Zoning Appeals' consideration of a variance for Joe and Judy Vitello, 8112 Edgerton Road. Please consider these points.

- 1. Consider the water run-off from the roof of the building to add gutters so the water can be sent to the storm sewer instead of running onto the properties on Bennett Road. The added water run-off is adding erosion to the 3 properties. They have been adding ditches to divert the water from their property to the 3 properties on Bennett Road.***
- 2. The reason for the addition is to store their equipment - as you can see on the pictures. They have parked equipment on their neighbors' property. Where will they stop?***
- 3. On April 7th my wife saw a fire in the back yard. I went to see - I asked Joe to put the fire out because he was on my property. Joe said that he was not. I explained to Joe that I will do what I need to do. I called the Fire Department and they came out and talked to Joe. He was asked by them to put it out.***
- 4. They have been slowly clearing and burning on at least 3 properties on Bennett Road. You can see this by the pictures and the survey.***
- 5. As you can see by the pictures, on the "No Trespassing" sign someone has been putting mud on the sign, covering it up. You can tell there are some hand marks of mud on the back of the sign. The latest cover-up was with ashes. At this time the sign is about 5 feet away from the property line so it appears that someone is crossing the property line to cover the sign up.***
- 6. This is why it would be nice to see Joe and Judy install a fence on their property so they no longer can trespass and do damage to the properties on Bennett Road.***

There are six photographs included with his submittal.

Mr. Kasaris: Does this Board have the authority to require the installation of a fence as a condition of approval for these type of variance requests and under these circumstances.

Ms. Vozar: The Board can impose conditions that apply specifically to the variance itself. For example, to insure that it is in compliance with our Code, that would be a condition that you would impose. That it would be in compliance with our Engineering Department's report – that would be another condition that you could impose. We do not impose conditions that are outside of the specifics of the variance. A fence would be outside of that criteria. So the Board does not have the authority to require that a fence be installed.

Mr. Kasaris: The Board would have authority, however, to condition the variance on gutters.

Ms. Vozar: Not only on gutters but on full compliance. As the Building Commissioner has indicated, normally when a variance comes before us and is granted it is inherent that before the building is constructed the applicant acquire a permit which requires that all ordinances and building and engineering requirements are met. This is a unique situation because the building has already been constructed. We now have to make sure that it has been built to Code and if it has not been built correctly then they need to have it come into compliance. My recommendation, in this type of situation, is to get a report and to verify everything prior to granting the variance. A variance runs with the land so we want to make sure that when we grant a variance that we do not need to go back later and try to figure out whether or not they met all of our conditions. Since the building is already up it is very possible for them to give all of the documentation that is necessary to the Building Commissioner for his review, prior to the granting of the variance, as well as addressing any issues regarding the drainage. The gutters would be an issue. You could put whatever conditions you want on it to insure that the applicants would be in compliance. You would obviously grant the variance contingent upon the approval of compliance with all building and zoning requirements.

Mr. Kasaris: Should we decide to table this item what issues would we have due to the fact that we do not meet in August and would have to wait and continue this in September, pending a report from the City Engineer?

Ms. Vozar: Due to the time frame that our Code imposes we would need the applicants to agree to a waiver of that time and the Board would also have to agree to that. Since the building has already been constructed there is no delay in the matter and merely gives both the applicants and the City time to insure that they are in compliance with all of our Codes on this property.

Mr. Kasaris: How do the members of the Board of Zoning Appeals feel about that?

Mr. Rohloff: Since we have been talking about gutters for this overhang – I do not see a gutter on the existing barn either. (Addressing the Building Commissioner) How does this come into play? It looks to me like there should be gutters on the entire structure.

Mr. Kulchytsky: Gutters would be required and they would have to be re-installed if they had been removed. Any permit that was previously issued would have required gutters. Any permits that are currently issued would also require gutters.

Mr. Kasaris: Mrs. Vitello, if you could please approach the microphone.

Mrs. Vitello: We took the gutters down when we were painting the barn.

Mr. Kasaris: How long ago was the barn painted?

Mrs. Vitello: About a year or one and one half years ago. We have not completed everything. We are still waiting for the carpenter to come back and do the flashing.

Mr. Kasaris: When was the lean-to constructed?

Mr. Vitello: In October of 2011. If I could bring up another issue as far as drainage goes. The topography of that land is higher at Ridge Road and gradually goes down towards Bennett Road.

Mr. Kasaris: This part of Edgerton Road, for the record, is between Ridge Road and Bennett Road.

Mr. Vitello: Correct.

Mrs. Vitello: There are no storm sewers back there.

Mr. Vitello: There is always a lot of water that comes up from Ridge Road and across the back of the property. Our property is naturally graded towards the back.

Mrs. Vitello: Mr. Sambor has falsely accused us of a crime which initiated the dispute between the Hurley's and ourselves.

Mr. Kasaris: I am sorry but we are not going to get into that.

Mr. Vitello: As far as the gutters go we do have the gutters ready to be installed but we first wanted to get this issue over with before we address that issue.

Mr. Kasaris: What are your feelings about installing some type of a fence?

Mrs. Vitello: Absolutely not. If they want a fence then they can put one up. It is costly. We offered to put trees and bushes there but it was not to their liking.

Mr. Vitello: We have been there for 15 years and have never had a problem with any of our neighbors, except for Mr. Sambor. We never had a problem with the Mr. and Mrs. Hurley until this incident.

Mr. Jankovsky: If I understand you correctly there were gutters originally on the barn?

Mrs. Vitello: That is correct.

Mr. Jankovsky: Where did they drain into?

Mrs. Vitello: They just drained into the ground. Did you want to say something Bonnie?

Mr. Kasaris: Could you please state your name and address for the record.

Mrs. Zywica: Bonita Zywica. I reside at 8124 Edgerton Road - the immediate neighbor to them.

Mr. Kasaris: Could you raise your right hand please. Do you solemnly swear that the testimony that you are about to give tonight is the truth, the whole truth and nothing but the truth?

Mrs. Zywica: I do. When the gutters were on the barn the downspouts came down and free flowed onto my property. This was no inconvenience to me because it has always gone downhill since we lived there. It is a natural drop-off. The property is lower than their property.

Mr. Kasaris: Attached to Mr. Sambor's affidavit there are a couple of pictures. Mrs. Zywica, if you could please approach the bench. Which property is yours?

Mrs. Zywica: This one.

Mr. Jankovsky: Mr. Kulchytsky, I am a city boy and I do not understand all of this. What is the difference between gutters coming off of the barn and just draining onto the ground and no gutters at all so that the water just comes off of the roof and onto the ground. What is the difference?

Mr. Kulchytsky: The Engineering Department would be able to help direct the flow in the right direction. Gutters would go into a downspout and the downspout could go into a splash guard which would direct the water in the right direction and reduce erosion. If it just falls onto soil there is a tendency for greater erosion.

Mr. Jankovsky: So were the gutters that were previously on the barn and just draining on the ground - was that within Code?

Mr. Kulchytsky: If the Engineering Department had approved it that way then that is correct.

Mr. Kasaris: Do we know if the Engineering Department had approved it that way.

Mr. Kulchytsky: I do not know. In this particular instance they should take a look at it, with the lean-to, and make an assessment based on this addition. Keep that in mind.

Mr. Kasaris: How does the Board feel about the Assistant Law Director's recommendation that we get a report from the Engineer before we vote on this?

Mr. Bull: I would support tabling this item until we get a full report.

Mr. Rohloff: I think that the more information we have will allow us to make a better decision.

Mr. Kasaris: Anyone else? Please approach the microphone. Please raise your right hand. Do you solemnly swear that the testimony that you are about to give is the truth, the whole truth and nothing but the truth? Please state your name and address.

Mrs. Needham: I do. My name is Barbara Needham. I live at 16221 Bennett Road. My property is adjacent to the Hurley property. Ever since this variance business came up with the applicants I feel afraid to walk in the back yard with my children or my grandchildren because Mrs. Vitello will stand there with her arms crossed and glaring. One day I went back there with my 8 year old grandson and there was a big sign on her driveway that spelled out "ASSHOLE", pardon my French. My grandson read this and he is only 8 years old. I am trying to tell him not to use bad language. So I feel intimidated and I do not want this variance to go through. The farther they are from my property the happier I am. That is all that I have to say.

Mr. Kasaris: Thank you.

Mr. Rohloff: Mr. Chairman, if this variance was denied what would be required?

Mr. Kasaris: The Building Department would probably order that the addition be torn down. Is that correct?

Mr. Kulchytsky: It would be just the illegal addition.

Mr. Kasaris: Mr. Vitello, how do you feel about continuing this so that the Board can receive some more information from the City Engineer?

Mr. Vitello: That is fine. I would like to make one more statement if I may. When all of this happened all three of those homeowners now complaining had their properties surveyed. They wanted me to pay for those surveys. It is not an issue over a variance for them. It is more of a vendetta than an inconvenience. Nobody has ever walked those properties, as far as the Hurley's and Mrs. Needham, in the 15 years that I have lived here until the commotion that has happened.

Mr. Kasaris: We are not going to get into this. With regard to this continuance, would you be in agreement?

Mr. Vitello: Yes. That would be fine.

Ms. Vozar: Mr. Vitello, for the record, pursuant to Section 1264.05 of the Zoning Code the Board has to act within sixty (60) days after such an appeal is presented to the Board and failure to act is considered approval of the appeal unless an extension of time is mutually agreed upon. So, for the record and as the applicant in this matter, are you agreeing that this matter shall be extended beyond the sixty (60) day time period set forth in Section 1264.05? I will need to have you say this for the record. Are you agreeing to the extension?

Mr. Vitello: That is fine. I do agree to the extension.

Ms. Vozar: So that we are also clear for what the purpose of the extension is – it is actually to gather information. Gathering that information will come from you to the Building Department and to the Engineering Department to help them ascertain whether or not the structure, as it exists, is in compliance with our Code and what, if anything, needs to be done with regard to the drainage. Just so that we are all clear on this. Is that correct Mr. Chairman?

Mr. Kasaris: Yes.

Mr. Vitello: That is fine. I have been talking to the Building Commissioner ever since I received his letter. Whatever information you need I will gladly supply.

Mr. Rohloff: I have one more question for the applicant. The reason that you built this addition without a permit is...?

Mr. Vitello: I was going off of the old permit. The previous owner had been issued a permit to construct a 32' x 50' barn. He did not build a structure that was that large. According to the Building Commissioner that permit had been good for only one year.

Ms. Vozar: Mr. Chairman, while Mr. Vitello is one of the applicants and has given his consent we should include Mrs. Vitello, who is also one of the owners of this property and is listed as one of the applicants. We would also need to have her come forward to consent to the extension of time for this item to be heard again at the September meeting of the Board.

Mrs. Vitello: That is fine.

Mr. Kasaris: I will then entertain a motion to table this item until the September meeting of the Board.

Moved by Mr. Bull, seconded by Mr. Rohloff to **table this item until the next meeting of the Board of Zoning Appeals in September.**

Mr. Kasaris: Will the clerk please call the roll.

Mr. Jankovsky: Yes.

Mr. Bull: Yes.

Mr. Gauman: Yes.

Mr. Kasaris: Yes.

Mr. Rohloff: Yes.

Ayes – all. Nays – none.

Motion carried (5-0). Item tabled.

Ms. Vozar: If I could just clarify for the record, there are two variances that are in that application but the entire matter has been tabled with the consent of the property owners. Is that correct?

Mr. Vitello: Correct.

Mrs. Vitello: Correct.

Mr. Kasaris: Our next meeting will be on September 25th.

(BZA13-11) Mark Breen, Breen Holdings, LLC / Ray Goodman request a variance to Chapter 1281 “Traditional Town Center / Main Street District (TCD)”, Section 1281.07 “Schedule of Yards and Setbacks”, paragraphs (a)(A)(1) and (a)(B)(1), of the City of North Royalton Zoning Code, to allow relief from the minimum setback requirement for parking from the street right-of-way and relief from the minimum front setback requirement for a building from the street right-of-way in a TCD-3 zoning district, for this proposed new building and parking area they wish to construct on this vacant lot located at the corner of State Road and Goodman Drive, also known as PPN: 488-05-012.

Ms. Brinkman: Public Hearing Notices were sent to property owners within 500 feet of the property in question and posted for the required period of time.

Mr. Kasaris: How many people wish to speak on this issue? We have several residents who wish to speak as well as the applicant himself. How many letters did we receive?

Ms. Brinkman: We received two Public Hearing Forms.

Mr. Kasaris: (Addressing the Building Commissioner) Could you give me some background on the area here?

Mr. Kulchytsky: Mr. Chairman, the parcel in question is located at the northwest corner of the intersection of Goodman Drive and State Road. This parcel is located at the beginning of the Goodman Development and was not included as part of that development or as part of the original plat. The parcel was previously zoned Local Business which would have allowed this parcel to be used for commercial purposes. The parcel was re-zoned approximately seven (7) years ago to TCD or Town Center District which is also a commercial use district. The property tapers from the State Road side from a very narrow width of approximately 70 feet and increases as it goes toward the residential development to approximately 161 feet; therefore, the shape increases as it goes into the residential development.

Mr. Kasaris: It is shaped like one half of a guitar.

Mr. Kulchytsky: Correct. It tapers outwards. Our setbacks for the TCD District require that from a street right-of-way the building must be 60 feet and the parking must be 20 feet. We have had several conversations with Mr. Breen, who is here tonight as the applicant, and his desire is to place the building closer to the State Road entry which would then require two (2) variances. In the interest of good planning the applicant would have the opportunity to continue with this development without appearing before this Board.

Mr. Kasaris: What do you mean by “in the interest of good planning”?

Mr. Kulchytsky: It is good planning. He wanted to move the building forward, closer to State Road, so as to distance the building further away from the residential district.

Mr. Kasaris: On the map that we have – where are the houses?

Mr. Kulchytsky: If you are looking at the 11” x 17” sheet – if you go to the far left that would be the first residential parcel. The current design places his commercial structure 280 feet away from the nearest residential property line.

Mr. Kasaris: Per the Code, how close could the applicant place his building to a residential property line?

Mr. Kulchytsky: The applicant could locate his building 40 feet from a single-family residential property line without a variance.

Mr. Kasaris: The variance would allow him to place it how far from the property line?

Mr. Kulchytsky: The building could be 40 feet from the property line and parking could be 20 feet from the property line.

Mr. Kasaris: With the variance being requested how far would it be from the residential property line?

Mr. Kulchytsky: From the residential property line?

Mr. Kasaris: Correct.

Mr. Kulchytsky: I believe that it would be 280 feet away.

Mr. Kasaris: So the applicant is moving the structure 240 feet away from the residential property line going east.

Mr. Kulchytsky: That is correct. The applicant is moving it as far as possible from the residential property line.

Mr. Kasaris: That is why you referred to it as good planning.

Mr. Kulchytsky: It is good planning for that reason.

Mr. Kasaris: With that as a background, is the applicant here? Would you please approach the microphone. Would you please raise your right hand. Do you solemnly swear that the testimony that you are about to give tonight is the truth, the whole truth and nothing but the truth?

Mr. Breen: I do. My name is Mark Breen. I am a financial services consultant. My office is currently located at another location in North Royalton. I have been looking for new property to expand on. I found this property. I worked with an architect to at least identify what I would be able to build on this property. As you can see in the submittal application this property is ideal for my needs, placing the building on the east end of the property. It will be approximately a 2,400 square foot building. It is purely for my financial service business. There will probably be about six or seven employees. Right now it is designed with four corner offices and a couple of cubicles in the middle. It is a very limited design right now. There is a potential that I might put in a coffee shop at the corner which would benefit the neighbors and the environment because the property is zoned for retail. I do have a contract on the property with Ray Goodman, who is the original owner of the property. For me, this was the best chance for me to construct this building on the right spot and the right location on this property.

Mr. Kasaris: You understand that you would not even have to come before this Board. You could build it without any variances.

Mr. Breen: Technically that is true. For me, working with the people that I have been, the most ideal location is in the front of the property. We do not want to be part of the residential side of it. We really want to kind of fit in with the landscape there. The building is also going to fit in very nicely with that model because I do not want it to be sticking out like a sore thumb. It will definitely improve my business if it is built properly. The other thing that I would like to add is that there are a lot of challenges to the back of the property. There is a culvert that runs through the middle of it. You can see that in the submittal. This exhibit shows an easement on it but that is another issue. There is no easement on it but we are going to have that addressed. In the back of the property there is also a sewer easement. I have no intention of being in the back of that property.

Mr. Kasaris: You are actually proposing to buy this entire property.

Mr. Breen: It is already under contract, subject to the variances being granted.

Mr. Kasaris: How large is this property?

Mr. Breen: It is only .89 acres. As you stated earlier, the property is in the shape of a guitar cut in half. I am proposing to build on the end that makes the most sense. I want it to fit in with the neighborhood.

Mr. Kulchytsky: Mr. Chairman, if I may. (Addressing the applicant) With the design that you have laid out, should the variances be granted and you locate the building towards the front of the parcel closest to State Road, what are your intentions for the back portion of the parcel? Would it just remain grass?

Mr. Breen: It would remain vacant or be improved by the planting of trees or something to make it look nice.

Mr. Kulchytsky: Landscaping.

Mr. Breen: Exactly. That is all subject to the designer and the architect. They have lots of ideas as far as that is concerned. I would also like to add that one of the reasons that I chose this location is because I have four children and it is a perfect location as they attend St. Albert and Padua and for me to have a work-life balance. Thank you.

Mr. Kasaris: Does anyone else have a question for the applicant?

Mr. Rohloff: If the variances are granted, when would you begin construction?

Mr. Breen: That is an excellent question. It is subject upon receiving these variances because I cannot actually execute the sale of the property without the variances having been approved.

Mr. Rohloff: So if these variances are not approved you would not consider building further back on the property.

Mr. Breen: I cannot.

Mr. Kasaris: Anyone else wishing to speak? Please approach the microphone. Do you solemnly swear that the testimony that you are about to give tonight is the truth, the whole truth and nothing but the truth?

Mr. Abdelkarim: I do. My name is Shehadeh Abdelkarim. I live at 5560 Goodman Drive. We purchased our property in December of last year. We were overwhelmed by the beauty of Goodman Drive, the green grass and the location of the buildings. I am going to be the second house next to the property in question. It will definitely alter the character of our street. I would certainly not like to see a business at the beginning of our street and at the front of our residential development. I understand that there is a potential for the property owner to construct this building without obtaining these variances but he would then be right in the midst of our homes. I think that this would be totally inappropriate. I would hope that the Board would recognize that the characteristics of this street cannot be maintained with a business right in the front of this dead-end street.

Mr. Kasaris: You understand that he could construct this building closer to the houses without even coming here.

Mr. Abdelkarim: I wish that I could have had a voice regarding the first zoning and code that was written for that parcel. I am in a position, as are my neighbors, where we are stuck with a situation whereby this property was declared for a commercial business. It really should not be zoned as such. That street is totally residential and to place a business at the front end of it destroys the whole look of the area.

Mr. Kasaris: But you understand that he can build there without obtaining these variances.

Mr. Abdelkarim: I understand that but I would like to have this commission consider denying this variance.

Mr. Kasaris: Anyone else wishing to speak? Please approach the microphone. Could you please raise your right hand. Do you solemnly swear that the testimony that you are about to give is the truth, the whole truth and nothing but the truth?

Mr. Giorgione: I do. My name is Donato Giorgione. I live at 5550 Goodman Drive. I built my house in 1986. I am the first house on the street. When I bought my lot to build my house I had asked the builder if anyone could build on the lot next to me. The builder said that no one could build at the back of that lot because there is a sanitary and storm sewer line that is required to be 25 feet from my property line in case the City would have to come in and make repairs. There is also a cement storm sewer about 85 feet from the property line. There is a grate on the top. This will spoil the value of the homes on the street. If we have a business at the front of our street, with a parking lot in the back, we will have more noise and a building that will not fit in. We do not like this. That is our opinion. We are against these variances. I will leave all of you to decide on this.

Mr. Kasaris: Thank you. Anyone else? Please approach. Could you please raise your right hand. Do you solemnly swear that the testimony that you are about to give tonight is the truth, the whole truth and nothing but the truth?

Mr. Saleh: I do. My name is Wael Saleh. I live at 5641 Goodman Drive. When we purchased our home almost 20 years ago we were never told that there was a commercial property at the entrance to our street. We had always thought that it was completely residential. I respect this gentleman's desire to construct this building. I understand where he is coming from. I do have commercial properties myself but never in a residential area. I do not understand why you would zone that property commercial when it is surrounded by a residential area. I do not understand how that was zoned commercial. None of the neighbors on the street were aware that it was zoned commercial.

Mr. Kasaris: (Addressing Ms. Vozar) What is the process that the City went through to have this property re-zoned? I think that it was re-zoned as TCD around 2004-2005.

Ms. Vozar: I believe that it went to a vote of the people. It has been quite some time since it happened. There was a long process. There were many meetings. It was a part of the Master Plan. There was a lot of public notice given to the residents to let them know that the process was happening for TCD. So all of the residents in that area and throughout the City were aware that that was the direction that was being proposed and eventually it was approved.

Mr. Kasaris: So that is how the zoning change occurred. It had been a part of the Master Plan.

Ms. Vozar: I believe it was.

Mr. Rohloff: That was voted on by the residents.

Ms. Vozar: I believe it was.

Mr. Kasaris: Does anyone else wish to speak? Please approach. Could you please raise your right hand. Do you solemnly swear that the testimony that you are about to give tonight is the truth, the whole truth and nothing but the truth?

Mr. Keehn: Yes. My name is Don Keehn. I live at 5611 Goodman Drive. A little history on the property. Perry Troiano, who built the development, was kind of a snake. He told everyone that that land was supposed to be residential. He had his construction trailer on that site. I moved here in 1978. It was later discovered that he had actually not owned that parcel but Ray Goodman owned the land. I was one of the first residents on the street. I have mixed feelings about the way things are going in North Royalton. On the one hand North Royalton needs some help as far as uplifting its status so I can see that there is a positive aspect of what this building could represent to the community. We lost the French Quarter which was too bad. We have such exciting things as Taco Bell. It would be nice if we could attract more upscale things and move more in that direction. I went to all of those meetings for the center of the City and I had thought that I would personally like to be near some of that stuff. On the other hand I can understand why people feel that this is a residential street and that this just does not belong here. It is really Troiano's fault. That is the reason why the older residents, in particular, were not aware of this. The newer residents should have known about this because I was at a lot of those meetings. I like the idea of re-developing the center of town. This town sorely needs something else. I know that they are currently re-doing the Master Plan and there are meetings that you can attend now. I think that this is done about every eight years – is that correct?

Ms. Vozar: I think that it is to be every five years.

Mr. Keehn: I just wanted to clarify that. If it is going to happen I think that this would be a better use than most other things. It is hard to say. I have mixed feelings about it. Thank you.

Mr. Kasaris: Anyone else? Could you please raise your right hand. Do you solemnly swear that the testimony that you are about to give tonight is the truth, the whole truth and nothing but the truth?

Mr. Suter: I do. My name is Bob Suter. I do not think that any business on that corner would enhance the value of our properties. It would reduce the beauty of our residential neighborhood. I realize that the houses are further back but this is no place for a business. This property is at the entrance to a residential area. I am against these variances. I am against these variances.

Mr. Kasaris: Anyone else wishing to speak? Mr. Marnecheck, City Councilman for Ward 4. Do you solemnly swear that the testimony that you are about to give tonight is the truth, the whole truth and nothing but the truth?

Mr. Marnecheck: Yes. I have received many anonymous phone calls over the past few days from residents. I believe that some are in attendance and some were not able to make it here tonight. They live on Goodman Drive. They have expressed some concerns about this. I hope that the residents have had a chance to get their questions answered. I do apologize. I could have notified the residents. I should have sent out an e-mail. I am sorry that I did not. I do think that it is important to realize, and correct me if I am wrong, that without the variances this building could be located how far from the nearest residential property line?

Mr. Kulchytsky: Without the variance this parcel can be developed for a number of uses and the structure could be erected 40 feet from the first residential property.

Mr. Marnecheck: Where is the proposed driveway? Is the driveway on Goodman Drive or is the driveway on State Road?

Mr. Kulchytsky: There are two curb cuts – one on State Road and one on Goodman Drive.

Mr. Marnecheck: So people could enter or exit the property from Goodman or State?

Mr. Kulchytsky: That is correct.

Mr. Marnecheck: I think that takes care of my questions. One more question. How far would this be from State Road, with the variances.

Mr. Kulchytsky: The distance of the structure from State Road?

Mr. Marnecheck: Correct.

Mr. Kulchytsky: I believe that it is shown here from the right-of-way, which means that there is a little bit that was not included being the tree lawn, and it is about 90 feet from the tree lawn and the tree lawn is about 15 or 20 feet.

Mr. Marnecheck: What about from Goodman Drive?

Mr. Kulchytsky: He is pushing the structure as far north as possible from Goodman Drive. The structure is approximately 35 feet from the right-of-way so it is about 45 feet from Goodman Drive.

Mr. Marnecheck: Okay. If these variances are granted what would be the next step in this process?

Mr. Kulchytsky: The next step would be for the applicant to appear before Planning Commission. This is when the overall layout would be reviewed.

Mr. Marnecheck: That is when the layout and an architectural design would be shared?

Mr. Kulchytsky: That would typically be presented at that time. It is not a requirement but most architects do submit some sort of exterior appearance as part of that design. There is also the Architectural Review Board. They will get into the details of the exterior materials, the landscaping, any signage and those kind of features.

Mr. Marnecheck: For those residents in attendance, those meetings are public and there is an opportunity for public discussion at those meetings.

Mr. Kulchytsky: That is correct.

Mr. Marnecheck: Thank you.

Mr. Jankovsky: Mr. Marnecheck, I assume that the folks who have contacted you do understand that this Board is not here to re-zone the property but just to decide on the granting of the requested variances. Most of the objections that we have heard tonight have to do with the zoning of the property and the desire of many of these residents that the property be re-zoned. I have a map at home that I looked at upon receiving this request. It goes back to 1995 at which time this property was segregated from the residential area and zoned Local Business. It was zoned commercial. I can relate to the gentleman who moved there in 1986 and may have received incorrect information at that time from the contractor. I cannot really relate to the gentleman who purchased his property in December of 2012 and did not know how the property was zoned.

Mr. Marnecheck: I had not known that this property was zoned commercial and I have often ridden my bike past it. I live on Julia Drive. There is a long parcel such as this in the front which happens to be owned by the first house on Julia Drive. If I had not done more research I would not have known about this either. I think that the residents have a better understanding of this now. Without the variance this building could be placed 40 feet from the first residential property line.

Mr. Kulchytsky: The critical thing is that with this variance the structure will be approximately 280 feet from the first residential property line.

Mr. Rohloff: Since we have two council people present tonight, are there any plans of re-zoning this in the future? Could it be re-zoned as residential in the future?

Mr. Kasaris: As Mr. Jankovsky had indicated, this had already been zoned commercial back in 1995.

Mr. Rohloff: My point is that this zoning is not going to change. It has been a commercial lot and eventually somebody is going to build there. There are no plans at this time to re-zone this – is that correct?

Mr. Marnecheck: The Master Plan process. By a vote of the people this property was re-zoned from Local Business to a TCD District back around 2004 via approval of the Master Plan. If people show up to the meetings of the Master Plan Task Force and have discussions on it there would be a possibility of changing it. At least theoretically.

Mr. Breen: When I was looking for a commercial property, and that property has been for sale for over one year, it states that it is a TCD zoned property. The only reason that we looked at this property was because it was zoned commercial.

Mr. Rohloff: What type of signage do you plan to have?

Mr. Breen: I am in financial services so it will be whatever limited signage that I can get to get my name out there. It will have to be approved by the Architectural Review Board.

Mr. Rohloff: There are two driveways. Could you describe those a little bit more?

Mr. Breen: Sure. The one driveway off of State Road is currently an entrance only. It may not actually happen. There may be only one entrance off of Goodman Drive to avoid that intersection. There are a few details that need to be worked through. The driveway off of Goodman Drive is really just to access the back of the building which is where the parking will be.

Mr. Rohloff: So your employees and clients would be driving down Goodman and entering your property.

Mr. Breen: Yes.

Mr. Bull: What is the typical traffic flow out of your type of business?

Mr. Breen: Most of my business is corporate benefits so I am usually out meeting my clients. I do have a wealth management business which may have one or two investors who come by a month. It is very limited traffic.

Mr. Kasaris: Thank you. (Addressing Mr. Kulchytsky) You indicated to Mr. Marnecheck that there are various types of uses for this property. What are some of the uses that this property could currently be used for under this existing zoning?

Mr. Kulchytsky: Of all of the uses that could be proposed for this parcel this would be one that would have the least impact with regard to traffic, pedestrian and vehicular, and otherwise. Permitted uses in a TCD-3 District include retail, offices, personal services, repair services, restaurants, banks and walk-up ATM's. There could be a conditional use granted which would allow a gasoline service station or a drive-thru facility. There could be an accessory use of outdoor displays. A church or government office would be permitted.

Mr. Kasaris: Somebody could put a gas station there.

Mr. Kulchytsky: Somebody could do so with a conditional use approval.

Mr. Kasaris: I will then entertain a motion to approve the first variance request.

Variance #1:

Moved by Mr. Jankovsky, seconded by Mr. Bull to **grant a variance to Section 1281.07 (a)(A)(1) of the Zoning Code to allow this proposed new building to be located 27 feet less than the required minimum setback from the street right-of-way in a TCD-3 district, thereby locating this new building approximately 33 feet from the Goodman Drive right-of-way.**

Mr. Kasaris: Any discussion? There is a strip plaza across the street from this parcel. The area is zoned TCD and this type of use is permitted. It is similar to the photography studio that is located in front of the Ashley Woods Subdivision. It is not very invasive. I do not believe that the variance is substantial. Given what the applicant is proposing to do here, it is the minimum necessary to make possible the reasonable use of the land. He is actually doing what he can so that the building is as far away from Goodman Drive as possible. I do not think that it alters the essential character of the entire neighborhood. It is not going to affect governmental services. He would not even need to be before this Board. He could locate this building only 40 feet from the nearest residential property line. For those reasons I support this first variance being requested. Anyone else?

Mr. Bull: Mr. Chairman, I concur.

Mr. Rohloff: Mr. Chairman, I agree with your statements. I think that this plan would have the least impact considering this property is located in a TCD-3 zoning district. It is zoned for a commercial use. This should have the least impact on this area of all the options that were mentioned.

Mr. Jankovsky: If I lived on Goodman Drive and I was one of the first houses there I would like nothing better than to see that grassy area remain as such. This Board, unfortunately, does not have the luxury of denying the use of a property to an owner when he is requesting to use the land for a purpose for which it is zoned. The applicant appears to be requesting variances which would have the least impact on the residents in the area. By virtue of that I think that this variance should be granted.

Mr. Kasaris: I find, on behalf of the Board, that this variance is the minimum necessary to make possible the reasonable use of the land. The essential character of the neighborhood is not going to be substantially altered. Adjoining property owners would not suffer substantial detriment as a result of the granting of this variance. There will be no adverse effect on the delivery of governmental services. This building, in fact, could be constructed without this variance. The building could actually be constructed only 40 feet from the nearest residential property line. The applicant is taking steps to be a good, responsible neighbor. Will the clerk please call the roll.

Mr. Bull: Yes.
Mr. Gauman: Yes.
Mr. Kasaris: Yes.
Mr. Rohloff: Yes.
Mr. Jankovsky: Yes.

Ayes – five. Nays – none.
Variance #1 granted (5-0).

Variance #2:

Moved by Mr. Jankovsky, seconded by Mr. Bull to **grant relief from Section 1281.07 (a)(B)(1) of the Zoning Code so as to allow the applicant a variance of 15 feet from the minimum setback requirement for parking from the street right-of-way in this TCD-3 district, thereby allowing the parking to be set back 5 feet from the street right-of-way.**

Mr. Kasaris: Discussion? I think that Mr. Jankovsky hit the nail on the head. The applicant is not asking for a use change. He is permitted to conduct this type of business on this property. He is going to buy the property which could prevent somebody else from purchasing it for a gas station or from placing a fast food restaurant on it. These types of businesses would be much more invasive. This particular variance request is for a setback. This variance request would not affect the delivery of governmental services. It would not alter the character of the neighborhood. It would not cause any substantial detriment to any of the adjoining properties, especially when you consider that someone could apply to have a gas station placed at that location. I believe that the variance being requested is minimum – it is not a large variance request. I will therefore support the granting of this second variance. Does anyone else from the Board wish to speak on this issue?

A gentleman from the audience asked to address the Board once again. Mr. Kasaris asked him to come forward.

Mr. Abdelkarim: The characteristic of the street is not defined by this City. It is defined by the people who live on that street. This is invasive to us. This business could not be placed there without these variances being authorized. You have the authority to deny this and allow us to keep our residential properties looking as they do now. You do not live on Goodman Drive. We do.

Mr. Kasaris: He would be able to place this building 40 feet from the nearest residential property line. I think that that is the most important thing here. The applicant is choosing to locate this building 240 feet from that same residential property line. A gas station could possibly be located on this very piece of land. This is the way that this land is zoned. We are not able to re-zone this property. We consider the applicant's requests based on the laws that we have and the criteria we are bound to use in making decisions regarding variances.

Ms. Vozar: Mr. Chairman. Just to clarify for the residents once again – this property is zoned TCD. As a TCD zoned parcel the property owner is constitutionally permitted to use their property according to the uses in the Code. We cannot stop this. The Board cannot stop an applicant from using the property as a commercial property. It is zoned TCD. The question is with regard to the placement of this commercial building – where it will be located. That is all that this Board is authorized to hear - where will the building be placed on this commercial property? The question is whether it should be closer to your homes, as the applicant is permitted to do, or are we going to allow it to be located farther away from your homes. That is all that this Board is hearing. It is all about the location of the building. It has already been determined that the applicant can use that property for this type of commercial use. I hope that this is clear to all of the residents.

Mr. Rohloff: I have some sympathy for the residents who are here because some of you were not aware that this property was zoned for commercial use. All this Board can do is help determine where this building will be located on this particular property. This property is zoned commercial. I feel that you might want to embrace this type of business versus some of the other types that could be constructed here. This will have less of an impact on you than some other commercial use.

Mr. Vozar: The Board is obligated to follow and comply with the Code. The Code speaks to the criteria that the Board shall consider. These variances are known as an “**area variance**”. The standard to consider in an *area variance* is “**practical difficulty**”. That standard must be followed by this Board.

Mr. Giorgione: I wish that the applicant could separate the parking lot and driveway from the grassy land by a six (6) foot fence and provide landscaping.

Ms. Vozar: If I could address that Mr. Chairman. Should this variance be granted by the Board the applicant would then need to go to the next step which would be Planning Commission. The Planning Commission takes all of that into consideration. They will talk about buffering. They will discuss what impact the parking lot and driveway will have on the area. They will get reports from the Police Department and traffic studies. All of that will happen at Planning Commission and anyone who is within the 500 feet will receive notice of that meeting. In addition to that issues such as signage and landscaping will also go before the Architectural Review Board. They will make sure that everything is aesthetically pleasing to the public. All of that will be taken into consideration. I hope that that addresses your concerns.

Mr. Giorgione: I just would like to ensure the privacy of the people on the street. I would like to see a six (6) foot fence installed.

Mr. Giorgione: My name is John Giorgione. I live at 5721 Goodman Circle. It was brought up that the applicant could construct a building without the variance and that it could be placed only 40 feet from the first residential property line. I do not understand how that can be done when there is an easement that goes through that property. Would the building then be sitting on top of the easement?

Mr. Kulchytsky: There are a couple of easements there. You could pave over these. Engineering permits paving over a storm easement. There is adequate area to put a building back there. He did have it surveyed so there are two areas where he would be able to construct a building of this size, if not larger. He would be able to pave over the easements so that would not really be an issue.

Mr. Saleh: I can tell by everything that has been said that this is going to move forward. That is inevitable. I would just ask that when you construct this building it will be something that will not stand out as much for being a commercial property. It could blend in with the neighborhood via landscaping and such. We will then welcome you into the neighborhood.

Mr. Kasaris: I think that the very fact that the applicant is here when he does not really have to be here before this Board speaks to the fact that he is considering the area around this property.

Mr. Saleh: I respect that fact. I would just hope that the construction of this building could somehow conform with the residential homes and not stand out like a sore thumb. Thank you.

Ms. Giorgione: My name is Lina Giorgione. I just ask that you take into consideration where you place your driveway. We have children on the street. They need to walk to State Road to get on the school bus.

Mr. Kasaris: Thank you. Anyone else? Will the clerk please call the roll.

Mr. Gauman: Yes.

Mr. Kasaris: Yes.

Mr. Rohloff: Yes.

Mr. Jankovsky: Yes.

Mr. Bull: Yes.

Ayes – five. Nays – none.

Variance #2 granted (5-0).

Mr. Kasaris: I will now entertain a motion to adjourn.

Moved by Mr. Bull, seconded by Mr. Jankovsky to **adjourn the B.Z.A. meeting for July 24, 2013.**

